

### **REMARKS**

This Amendment responds to the Office Action mailed November 1, 2005.

Claims 1-16 remain pending in the application and stand rejected. Claim 11 has been amended herein.

Applicants would like to thank the Examiner, Suzanne Dino Barrett, for the telephone interview with Applicants' representative, David W. Dorton, on February 17, 2006. During the interview claims 1, 10, 11 and 16 were discussed with respect to U.S. Patent No. 6,746,091 to Friar et al. Specifically, Applicants' representative discussed the differences between the claimed invention and Friar '091, as described more fully below. The Examiner agreed that the lock mechanism of Friar '091 requires additional manual manipulation even when it is electronically actuated, in contrast to the lock mechanism of the present invention which automatically moves between locked and unlocked positions, as noted in the Interview Summary dated February 17, 2006. Amendment of claim 11 to clarify that such movement is automatic was discussed. Claim 11 has now been amended in accordance with the telephone interview. Applicants respectfully request reconsideration in view of the following remarks.

### **Claims Rejected Under 35 U.S.C. §102**

Claims 1-5 and 8-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,746,091 to Friar et al. Claims 1, 10, 11 and 16 are the only independent claims in this rejected group. Claims 1 and 16 are directed to locking systems for a cart having at least one drawer moveable between an open position and a closed position, claim 10 is directed to a lockable cart, and claim 11 is directed to a

method of operating a lockable drawer of a cart. Claims 1, 10 and 16 each recite "an electronically actuated lock mechanism cooperating with said manually actuated lock mechanism to automatically move said cam between said locked position and said unlocked position" (emphasis added). Claim 11 has been amended to recite "selectively operating an electronically actuated lock mechanism coupled to the drawer and cooperating with the manually actuated lock mechanism to automatically move the manually actuated lock mechanism between the locked condition and the unlocked condition" (emphasis added).

Applicants traverse the rejections of claims 1, 10 and 16, and assert that the amendment to claim 11 overcomes the rejection based on Friar '091, because Friar '091 does not teach or suggest each and every element recited in the claims. Specifically, Friar '091 does not teach or suggest an electronically actuated lock mechanism that cooperates with a manually actuated lock mechanism to automatically move a cam between a locked position and an unlocked position, as required by claims 1, 10 and 16, and does not teach or suggest operating an electronically actuated lock mechanism to automatically move a manually actuated lock mechanism between a locked condition and an unlocked condition, as required by amended claim 11. Rather, Friar '091 is directed to a locking system 11 including a lock mechanism 22 having a handle 62 that may be rotatably and slidably manipulated by a knob 70 to move within a housing 42 to thereby move a cam 78 between a first position (FIG. 3) wherein cam 78 engages a locking tab 18 to retain a latch 77 on a drawer tine 79, and a second position (FIG. 6) wherein the cam surface is shifted such that locking tab 18 can be moved upwardly to

release tine 79 from latch 77. (Friar '091 at col. 4, lines 19-37.)

An armature 26 of a solenoid 24 engages a recess 82 in the handle 62 to prevent manipulation of the knob 70 and handle 62 until a proper access code has been entered into the system, or until the armature 26 is manually retracted by override mechanism 34 to move out of recess 82. When armature 26 has been removed from the recess 82 by either of these methods, the handle 62 must still be manually manipulated to move the cam 78 between the first (locked) and second (unlocked) positions. (Friar '091 at col. 4, lines 47-52.) Accordingly, Friar '091 does not include an electronically actuated lock mechanism that automatically moves the cam between the locked position and unlocked position, as required by claims 1, 10, 11 and 16. (Friar '091 at col. 5, lines 36-57.)

During the telephone interview on February 17, 2006, the Examiner agreed that the lock mechanism of Friar '091 requires some manual manipulation of the knob/handle even when the armature is electrically actuated to be withdrawn from the recess in the handle. (Interview Summary.) However, the Examiner inquired whether the lock mechanism of Friar '091 "may move incidentally 'between' the two positions upon electric actuation (due to tolerances in the groove) before the knob is manipulated." (Interview Summary.) Applicants respectfully assert that such "possible" operation of the lock mechanism of Friar '091 is an improper basis upon which the rejection of claims cannot stand. In this regard, Applicants note that the proposed possible operation of Friar '091 is essentially an assertion that the mechanism would inherently operate as recited in the claims. Applicants note, however, that inherency

cannot be based upon possibilities or probabilities. "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); MPEP §2112. "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" In re Robertson, USPQ2d 1949, 1950-51 (Fed. Cir. 1999)(citations omitted); MPEP §2112.

In this instance, there is no certainty that the lock mechanism of Friar '091 may move incidentally between the unlocked and locked positions as stated by the Examiner. It may very well be that the handle/knob of Friar '091 does not exhibit such incidental movement. As such, the possible "incidental" movement of the lock mechanism of Friar '091 is not sufficient to establish the inherency of that result or characteristic.

Nevertheless, Applicants note that the claim language "between said locked position and said unlocked position" is intended to encompass movement of the cam from a configuration wherein the drawers of a cart cannot be opened to a position where the drawers can be opened, and movement from a position wherein the drawers can be opened to a position wherein the drawers cannot be opened. Friar '091 does not disclose such a lock mechanism, as discussed above and agreed upon by the

Examiner. For at least these reasons, Applicants assert that independent claims 1, 10, 11 and 16 are in condition for allowance and respectfully request that the rejections of these claims over Friar '091 be withdrawn.

Claims 2-5, 8 and 9 each depend from independent claim 1, and claims 12-15 each depend from independent claim 11. Accordingly, claims 2-5, 8, 9 and 12-15 are in condition for allowance for at least the reasons discussed above with respect to independent claims 1 and 11. Accordingly, Applicants respectfully request that the rejections of claims 2-5, 8, 9 and 12-15 be withdrawn.

#### **Claims Rejected Under U.S.C. §103**

Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being obvious over Friar '091 in combination with U.S. Patent No. 5,841,361 to Hoffman. As noted in the Office Action, Friar '091 only qualifies as a reference under §102(e). Applicants hereby confirm that Friar '091 was commonly owned by the Assignee of the present invention at the time the present invention was made, and still is commonly owned by the Assignee. Accordingly, Friar '091 is an improper reference under 35 U.S.C. §103(c). For at least these reasons, Applicants respectfully request that the rejections of claims 6 and 7 based on Friar '091 in combination with Hoffman '361 be withdrawn.

#### **Conclusion**

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any issue requires

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further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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